



Australian
Competition &
Consumer
Commission

13 May 2009

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Partner
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By email: vishal.ahuja@mallesons.com

Dear Mr Ahuja

Re: GrainCorp Operations Limited Port Terminal Service Access Undertaking

I refer to the access undertaking from GrainCorp Operations Limited for its port terminal services at the Carrington, Fisherman Island, Geelong, Gladstone, Mackay, Port Kembla and Portland (the Undertaking) submitted to the ACCC on 15 April 2009 for consideration under Part IIIA of the *Trade Practices Act 1974* (the Act).

I note that GrainCorp has not provided the ACCC with a public version of GrainCorp's proposed Wheat Port Terminal Services Agreement for 2009/2010 (Proposed Agreement).

In this regard, I refer to the ACCC's letter of 25 February 2009 and associated information paper, wherein it was suggested that operators develop an indicative or generic access agreement as the basis for negotiation.

Without consulting on the public version of the Proposed Agreement, we anticipate that it will be difficult for the ACCC to access the likely impact of the Proposed Agreement and the Undertaking on the factors in section 44ZZA of the Act to which the ACCC is required to have regard.

Accordingly, we request that you provide the public version of the Proposed Agreement to the ACCC by **20 May 2009**.

Under section 44ZZBC of the Act, the ACCC must use its best endeavours to complete its assessment of the Undertaking within six months from the date it was submitted. However, as noted in my letter of 17 April 2009, this is likely to be dependent on GrainCorp providing complete information in response to ACCC information requests. A prompt response to this request will assist the ACCC in its timely assessment of the Undertaking.

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Please contact me on (03) 9290 1804, or Sarah Sheppard on (03) 9290 1992, if you have any questions in relation to the above.

Yours sincerely



Anthony Wing
General Manager
Transport & General Prices Oversight